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Director's Office  
Office of Patent Publication

**CORPORATTE PATENT COUNSEL  
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TARRYTOWN, NY 10591**

In re Application of :  
Mark T. Johnson, et al. : **DECISION ON PETITION**  
Application No. 09/778,131 :  
Filed: February 6, 2001 :  
Attorney Docket No. PHN-16,952A :

This is a decision on the Letter, received in the United States Patent and Trademark Office on April 21, 2003, which request reconsideration of the Decision On Petition mailed April 3, 2003.

The Request is **DISMISSED**.

The Decision on Petition, mailed April 3, 2003, dismissed the applicant's Petition to Withdraw Holding Of Abandonment (submitted as Letter), received on June 26, 2002, in view of the petitioner's non-compliance with 37 CFR 1.8(b), MPEP 503 and no general authorization to charge the issue fee, as required under 37 CFR 1.311(b).

Petitioner again states that the Applicants sent in the Issue Fee Transmittal form PTOL-85B authorizing payment of the Issue Fee from Applicant's deposit account with a Certificate of Mailing date April 30, 2002. Further, that the Issue Fee Transmittal form was received by the USPTO on May 7, 2002, as shown by the enclosed copy of the postcard receipt.

Petitioner has submitted a copy of the return post card receipt, which acknowledges receipt of the Issue Fee on May 7, 2002, as evidenced by the "Office Date" stamp thereon. Also submitted is a copy of the PTO 1595 Recordation Form Cover Sheet and Assignment. Petitioner believes that this letter satisfies the requirements under 37 CFR 1.10.

The holding of abandonment will not be withdrawn due to the following:

- The post card acknowledge receipt of the Issue Fee by the USPTO, however, it doesn't support the timeliness of the Fee(s) Transmittal and payment thereof
- 37 CFR 1.10 Express Mail is not applicable, since there is no evidence supporting the use of this procedure
- Omission of the Deposit Account Number on the Fee(s) Transmittal and no general authorization to charge such fees. See 37 CFR 1.311(b)
- The Recordation Form doesn't provided a general authorization to charge such fees within the meaning of 37 CFR 1.311(b)

Petitioner should review the amended rules pertaining to general authorization to pay fees. See 65 FR 54647 September 8, 2000, which states:

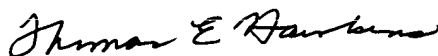
As an additional aid to applicants, the rule as proposed has been further amended to include §§ 1.311(b)(1) and (b)(2) that can act as safety mechanisms. Where it is clear that an applicant actually intends to pay the issue fee such as by submitting an incorrect issue fee amount, or completing the issue fee transmittal form provided by the Office with the notice of allowance, a general authorization to pay fee or a specific authorization to pay the issue fee, submitted prior to the mailing of the notice of allowance, will be allowed to act a payment of the correct issue fee.

Petitioner should consider filing a Petition for Revival Of Abandoned Application under 37 CFR 1.137.

Further correspondence or inquires with respect to filing a Petition For Revival Under 37 CFR 1.137 should be directed to the Office of Petitions at 703-305-9282 or 9283 or as follows:

*By mail:* Commissioner for Patents  
P O Box 1450  
Mail Stop Petitions  
Alexandria, VA 22313-1450

Telephone inquires concerning this decision should be directed to the undersigned at 703-305-8380.



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